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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/810,828	03/16/2001	Sohrab Zarabian	OC0103US	6761
22849	7590	03/04/2004	EXAMINER	
SCOTT W HEWETT 400 WEST THIRD STREET #223 SANTA ROSA, CA 95401			ARTMAN, THOMAS R	
			ART UNIT	PAPER NUMBER
			2882	

DATE MAILED: 03/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/810,828	ZARRABIAN ET AL.
	Examiner	Art Unit
	Thomas R Artman	2882

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
 - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 15 December 2003.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 3-5,7,8,11-16 and 26-36 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) 3-5,7,8,11-16,26-28,30-34 and 36 is/are allowed.
 6) Claim(s) 29 and 35 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 a) The translation of the foreign language provisional application has been received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892) 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s) _____. 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6) <input type="checkbox"/> Other: _____
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DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 29 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Narendran (US 5,760,391) in view of Broutin (US 6,272,157).

Regarding claim 29, Narendran discloses a device (Fig.6) including:

- 1) a fiber optic input (shown, but not labeled),
- 2) collimating optics (item 32),
- 3) a variable filter (item 58) having a tapered spacer region being tapered along a tapered direction,
- 4) a linear optical detector array (item 36) disposed along the taper direction, and
- 5) the collimating optics are disposed between the fiber optic input and the linear variable filter in order to illuminate the filter.

Narendran does not specifically disclose that the variable filter is an edge, or short- or long-pass, filter.

Broutin teaches that edge filters can be used as substitutes to etalon-based bandpass filters, as stated at least in col.2, lines 25-28.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute an edge filter for an etalon filter in Narendran as taught by Broutin in view of their recognized equivalence. Further, one would have been motivated to make this substitution because edge filters are cheaper alternatives to bandpass filters with only a slight trade-off in resolution.

With respect to claim 35, Narendran's variable filter is a linear variable filter.

Response to Arguments

The applicant asserts that there isn't any suggestion found in the art to support the examiner's position that an edge filter can be substituted for a bandpass filter. The applicant relies upon the disclosure of Broutin that states that experimental results were better when using a bandpass filter rather than an edge filter for a given application. Since Broutin tried both types and claims better results for the bandpass filter, then there is no suggestion of motivation to use an edge filter because it was not as desirable.

The examiner respectfully disagrees. Though the bandpass filter may perform better than the edge filter, it does not automatically preclude the obviousness of substituting an edge filter for a bandpass filter. Broutin has shown that both filters can perform the same function with a reasonable expectation of success. Therefore, the substitution of an edge filter for a bandpass filter is maintained as obvious, as stated in the above rejection.

Allowable Subject Matter

Claims 3-5, 7, 8, 11-16, 26-28, 30-34 and 36 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

Claims 11, 14, 26, 27 and 30 are allowable for reasons as stated by the applicant, at least in the second full paragraph of page 10 of the Response, dated December 15th, 2003. Claims 3-5, 7, 8, 12, 13, 15, 16, 28, 31-34 and 36 are allowable by virtue of their dependency.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas R Artman whose telephone number is (571) 272-2485. The examiner can normally be reached on 9am - 6:30pm Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ed Glick can be reached on (571) 272-2490. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1782.

Thomas R. Artman
Patent Examiner
January 23, 2004

TRP


EDWARD J. GLICK
SUPERVISORY PATENT EXAMINER